

OPPOSE THE CHILD INTERSTATE ABORTION NOTIFICATION ACT (HR 748)

The Child Interstate Abortion Notification Act (CIANA) is an inappropriate federal intrusion in family decision-making that would criminalize doctors and even close family members who help young people access abortion services.

CIANA imposes a punitive and arbitrary federal parental notification requirement even on mature young people who have good reasons for getting support from responsible adults other than their parents. In yet another example of Congressional overreaching, it will trump the value judgments of more than half the states that lack such requirements.

CIANA has two parts. The first part, the travel restriction, makes it a federal crime for any person other than a parent, including a grandmother, aunt, or older sibling, to assist a minor to cross state lines to access abortion services unless the minor has complied with the parental notification or consent laws of her home state. This provision is also pending in the Senate as the Child Custody Protection Act (CCPA) (S.8, S.403).

The second part, the notification requirement, makes it a federal crime for a doctor to perform an abortion on a minor who is a resident of another state unless the doctor notifies the minor's parent a minimum of 24 hours before the procedure.

The Child Interstate Abortion Notification Act is flawed legislation that will harm teens and make bad public policy:

- Parental notification and consent laws do not take into account the complexity of real people's lives. Sadly, not every parent is their daughter's best advocate. No law can change that.
- CIANA contains no exception for emergency circumstances where a minor's health would be threatened by the delay required by the Act.
- CIANA will create a complicated patchwork of state and federal law that will apply differently depending on the minor's state of residence and the state where the abortion is performed and that will be nearly impossible for teens to understand or physicians to comply with.
- Depending on the minor's state of residence and the state where she has the abortion, some young women will be forced to go to court twice—in the state where they live and the state where they obtain an abortion--in order to get permission for an abortion without parental involvement, while other minors will have no judicial procedure available to them to obtain permission for a confidential abortion.

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- CIANA will endanger teens by forcing them to travel alone without the help of trusted adults.
- CIANA is unconstitutional because it unduly burdens a minor's right to abortion and interstate travel, fails to protect a minor's health and encroaches on the prerogatives of the states to set health care policy and regulate medical practice.

The reason CIANA is so complicated and so onerous is clear: it is not about protecting young people from harm. It's about erecting so many roadblocks in the path of a minor seeking an abortion that she will be forced to bear a child. It's disingenuous. It's dangerous. It's unfair. And it's unconstitutional.

The choice is clear. Protect our most vulnerable young people from unnecessary harm, and protect their right to determine whether or when to have a child. Oppose the Child Interstate Abortion Notification Act.

Not Every Family is a Model Family. Sadly, No Law Can Change That.

Mandatory parental consent and notification laws harm precisely those teens our laws should be looking out for—those who cannot or should not turn to their parents for guidance.

Most teenagers live in loving, safe homes with parents they trust for protection and support. In an ideal world, every parent would be present in their children's lives, would create an environment where their teenagers feel they could reach out to their parents when they are in crisis and would talk to their teenagers about important decisions, including decisions about an unintended pregnancy. Planned Parenthood Federation of America, the world's largest and most trusted voluntary reproductive health care organization, strongly encourages parents to talk to their children about sex, reproduction, and healthy decision-making, and encourages young people to involve their parents in their decision about whether to have an abortion. Research suggests that most teens do.¹

For teenagers who live in unsafe or abusive homes or where parents have abdicated their responsibilities, however, CIANA would create a dangerous, one-size-fits-all government mandate. Neither this bill nor any other can mandate healthy family communication or a loving, supportive environment where it does not already exist.

CIANA Trumps The Value Judgments Of More Than Half The States.

CIANA imposes a federal parental notification requirement on the 27 states that have no parental involvement law or that require parental involvement but have flexible alternatives such as allowing an adult family member to be notified or give consent. In some states parental involvement laws have been struck down by state courts because the state constitution protects against governmental intrusion into a person's personal decision about abortion.

Rather than respecting the principle of federalism that allows states to make their own policy judgments within their borders, the authors of CIANA instead seek to impose a parental notification law on the 27 states that have made policy decisions with which they disagree. Doctors in these states will be forced to notify a young woman's parent before performing an abortion if she is a resident of another state, despite the fact that these states have already decided against such a punitive, rigid intrusion into family decision-making.

This aspect of CIANA undermines the principles of federalism that, throughout our nation's history, have allowed each state to determine policies relating to domestic relations and health care within its borders.

CIANA also discriminates between the states because the federal notice requirement does not apply in the 23 states that have strict parental involvement requirements that do not allow another adult to give consent or be notified. These states are free to apply their own policies because they are compatible with Congress's judgment.

CIANA Is Unconstitutional Because It Will Force Minors To Delay Urgent Health Care And, Contrary To Proponents' Claims, Infringes On The Rights Of Parents.

CIANA contains no exception to either the waiting period or the notification requirement in cases where a young person is facing a serious but not life-threatening medical emergency.

This means that, even in a medical emergency, a young person would be forced to wait 24 hours for an abortion that could avert serious risks to her health. **The abortion must be delayed even when the minor's parent accompanies her and requests medical help!**

CIANA's lack of an adequate medical emergency exception makes it unconstitutional. The Supreme Court made clear that mandatory waiting periods and parental involvement laws must have a medical emergency exception.

CIANA Lacks A Constitutionally Required Judicial Bypass.

The Constitution requires that parental involvement laws contain a mechanism by which a minor can obtain a court order that waives the consent or notice requirement if the minor can show that she is mature enough to decide about the abortion on her own or that the proposed abortion would be in her best interests. CIANA imposes a mandatory parental notification law without providing this waiver procedure, known as a judicial bypass. It is therefore unconstitutional. While CIANA allows a court in a minor's home state to waive notification, this option is not available to a minor who travels from a state that has not enacted a parental involvement law that has a judicial bypass.

Forcing a young person to tell a parent about an abortion decision—regardless of her family circumstances—is dangerous. According to a 1991 study, nearly one-third of young women who

did not tell their parents of their abortions had histories of violence in their families, feared the occurrence of violence, or were afraid of being forced to leave their homes.²

Given what's at stake for so many young people who choose not to tell their parents about an abortion, CIANA's flawed exceptions are more than simply insufficient. They're callous.

CIANA Will Unconstitutionally Force Some Minors To Seek A Judicial Bypass In Two States.

Ironically, CIANA's travel restriction will force some minors to seek a judicial bypass in two states. Often minors travel from one state with a parental involvement law to another state that has one too because the closest abortion provider is in the neighboring state. Under present law if a minor cannot involve a parent, she need only obtain a judicial bypass in the state where she obtains an abortion. Under CIANA, a minor who receives assistance to travel must first comply with her home state's parental involvement law. Thus, many minors will have to obtain two judicial bypasses: one from their home state, in order to comply with CIANA, one from the state where they obtain an abortion, in order to comply with local law. The requirement of obtaining two judicial bypasses will greatly delay minors and compromise their confidentiality. Such burdens on the right to seek an abortion are unconstitutional.

CIANA Criminalizes Even Aunts And Grandmothers Who Help Their Nieces And Granddaughters Access Legal Abortion Services And Forces Minors To Forego The Help Of Trusted Adults

Because CIANA's travel restriction imposes imprisonment and fines on any person that assists a minor to cross a state line without the parental consent or notice required by her home state, it will endanger minors by forcing them to travel alone without the help of trusted adults. For example, under CIANA, if a grandmother who was caring for her granddaughter drove her to get an abortion in a neighboring state, the grandmother could spend up to a year in prison, pay a hefty fine, and be the subject of a civil lawsuit if she did not first get the parental consent or notice required by the minor's home state. This would be true even if the minor's parents were abusive, unreachable or had simply abdicated parental responsibility.

This Bill Would Arbitrarily Penalize Young Women Who Happen To Live Near State Borders.

With 87% of counties in the U.S. lacking an abortion provider, many young women must travel to another state to access the nearest abortion provider. In contrast, the nearest provider within a minor's home state may be many hundreds of miles away.

While currently these young people and their families are subject to the laws of the state they are traveling to, they now will be subject to a tangle of federal and state restrictions, including the

new federal notice requirement and travel restriction and, in some cases, the law of their state of residence as well.

CIANA Creates A Confusing Web Of State Laws That Will Be Nearly Impossible For Teens And Providers To Comply With.

CIANA's complicated definitions create a maze of laws that will be hard for young people and their doctors to understand and comply with.

In order for a teenager who cannot involve her parents in her abortion decision to satisfy CIANA's requirements, she would need to know CIANA's travel restriction and notice requirements, the parental involvement laws of the state where she lives, the residency requirements of the state where she lives, the parental involvement laws of the state where she is seeking the abortion, and the judicial bypass procedures of both her state of residence and the state where she is seeking an abortion. In order for a physician to avoid federal criminal prosecution, he or she would need to know all of the above, but also the parental involvement law of every state from which his or her patients could possibly come.

Forcing Doctors To Violate Patient Confidentiality Conflicts With Basic Tenets Of Their Profession.

Many professional medical societies actively oppose laws that mandate family communication where it does not already exist. According to the American Academy of Pediatrics, "[l]egislation mandating parental involvement does not achieve the intended benefit of promoting family communication, but it does increase the risk of harm to the adolescent by delaying access to appropriate medical care."³

The American Medical Association, like Planned Parenthood, believes that doctors should encourage their patients to involve their parents in their abortion decision, but "[p]hysicians should not feel or be compelled to require minors to involve their parents before deciding whether to undergo an abortion. The patient, even an adolescent, generally must decide whether, *on balance*, parental involvement is advisable. Accordingly, minors should ultimately be allowed to decide whether parental involvement is appropriate"⁴

¹ A 1991 study of unmarried minors having abortions in states without parental involvement laws found that 61% of the respondents reported that at least one of their parents knew about their abortion. Stanley K. Henshaw & Kathryn Kost, "Parental Involvement in Minors' Abortion Decisions," *Family Planning Perspectives* 24, no. 5 (1992): 196-207, 213.

² Stanley K. Henshaw & Kathryn Kost, "Parental Involvement in Minors' Abortion Decisions," *Family Planning Perspectives* 24, no. 5 (1992): 196-207, 213.

³ American Academy of Pediatrics, "The Adolescent's Right to Confidential Care When Considering Abortion (RE9614)," Committee on Adolescence, vol. 97, no. 5 (May 1996) 746-751.

⁴ *American Medical Association*, E-2.015 Mandatory Parental Consent to Abortion. Issued June 1994 based on the report "Mandatory Parental Consent to Abortion;" adopted June 1992. (JAMA. 1993; 269: 82-86)